

VIA E-MAIL

February 12, 2024

The Honorable Judge Henry T. Wingate
United States District Judge
501 East Court Street
Jackson, MS 39201

Re: *The United States of America et al. v. The City of Jackson, Mississippi*
Case No. 3:22-cv-00686-HTWLGI (Safe Drinking Water Act Case) and No. 3:12-cv-790-HTWLGI (Clean Water Act Case)

Dear Judge Wingate:

We represent the Mississippi Poor People's Campaign and the People's Advocacy Institute (referred collectively herein as "Proposed Intervenor-Plaintiffs") in the above-referenced case. As the close of the stay in this case nears on March 1, 2024, and the parties presumably move closer to a proposed settlement, the Proposed Intervenor-Plaintiffs urgently write, a second time, to respectfully request an update on the status of the Motion for Leave to Intervene and supporting documents filed on September 25, 2023, nearly five months ago. Please also see our previous communication to the court on December 21, 2023, which was sent via email to wingate_chambers@mssd.uscourts.gov.

In the December correspondence, we noted several significant developments that occurred while our clients awaited a ruling, including JXN Water's rate increase and adjustment proposal. Per JXN Water's website, depending on the size of the meter, customers could see an increase of up to 62.7 percent in their new bills. We hoped that the Court would view these changes as significant developments affecting Jacksonians that should not take place without input from community members. Yet, it appears JXN Water is moving forward with its proposed rate adjustment plan. *See* Doc. 87 (Mot. for Order to Release SNAP Recipients List.). The community's perspectives on this issue are fundamental to the development of a fair rate change process and to assisting the Court in understanding the impact of these significant changes. Our clients—who live, work, and serve the communities of Jackson—seek to assist the Court with ensuring the veracity of JXN Water's assertions, especially those related to areas of customer service, maintenance, and responsiveness to resident concerns and emergencies.

Since our December correspondence to the Court, emergencies concerning Jackson's water quality have occurred. On January 11, 2024, the Mississippi State Department of Health issued a boil-water notice for Jackson (and Flowood, Mississippi) after *E. coli* bacteria were detected in the City's water supply. JXN Water responded by immediately disputing the Mississippi State

Department of Health’s laboratory data concerning the safety of the water for Jackson residents¹—even though JXN Water, by its own admission, was made aware of the positive E. Coli lab result on January 10, 2024. Instead of erring on the side of caution by immediately issuing a boil-water notice, JXN Water alleged that the lab results were “mistakes.” After retesting the samples, which produced negative results, the Mississippi State Department of Health stated, “In spite of the allegations made by the City of Jackson Water Supply, the Mississippi State Department of Health stands behind the initial test results that indicated the presence of *E. coli* in the City of Jackson’s surface water.”²

The unsettling impact on Jackson’s residents must be more seriously considered when the state health department expresses concerns related to the water quality and JXN Water denies those claims, particularly in a city with historic and well-founded distrust in bureaucratic processes over its public water system.³ With the Mississippi State Department of Health alleging the presence of dangerous contaminants in Jackson’s water supply and JXN Water disputing these lab testing results, the residents of Jackson are left with no assured guidance as to whose testing results to believe.

Both of these entities have a great responsibility to prioritize the health and wellness of Jackson residents while also working to restore community trust. Had our clients’ unopposed Motion for Leave to Intervene been ruled on before this incident, there could have been an opportunity for greater information sharing with the community so residents could make the best and most informed decision for the health and safety needs of their families. Further, our clients could have helped JXN Water and the Mississippi State Department of Health determine where the discrepancy in testing results were and how to best communicate that discrepancy with the residents of Jackson.

Moreover, the stay of the above-referenced case expires on March 1, 2024. While our clients wait on the Court to issue a ruling on their Motion for Leave to Intervene, the current parties to the action are presumably inching closer to a proposed consent decree over Jackson’s public water system without any meaningful community collaboration concerning its terms. Although our clients have endeavored to work with the current parties and the Interim Third-Party Manager outside of court intervention, there has been a severe lack of information sharing and of willingness from the ITPM and the U.S. Environmental Protection Agency to take the concerns of our community organization clients seriously.

¹ Press Release, JXN Water, *JXN Water Disputes State Lab Results Showing E.coli Presence*, Jan. 11, 2024, <https://jxnwater.com/jxn-water-disputes-state-lab-results-showing-e-coli-presence/>.

² Nick Judin, *Jackson Boil Water Notice Lifted After Retests Find No E. Coli in Water*, Miss. Free Press, Jan. 11, 2024, <https://www.mississippifreepress.org/39019/jxn-water-disputes-boil-notice-suggesting-lab-contamination-a-kick-in-the-gut>.

³ Alex Rozier, *Rebuilding trust: How Ted Henifin hopes to repair the relationship between Jacksonians and their water system*, Mississippi Today, Mar. 9, 2023, <https://mississippitoday.org/2023/03/09/ted-henifin-jackson-water-system/>.

One hundred and forty days have passed since the Proposed Intervenor-Plaintiffs filed the Motion to Intervene. As demonstrated by the above-mentioned developments over the last month, time is of the essence. The very health and vitality of Jackson's residents are at stake. We respectfully request an update from the Court on the status of the motion's consideration. The Proposed Intervenor-Plaintiffs appreciate the Court's prompt consideration of this request and are available at the Court's convenience for any questions concerning this matter.

Respectfully Submitted,

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